

11603

A S. ...
PLI

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

Request for Reimbursement of

FILE: B-193808

DATE: October 4, 1979

MATTER OF: Gerald C. Newmeyer - Real Estate Expenses

DIGEST:

Employee's mobile home was destroyed by fire and he was living in temporary quarters at time he was first definitely notified of transfer. Since the employee would have resided in the house but for the fire, he has substantially complied with the occupancy requirement of para. 2-6.1d of the Federal Travel Regulations (FPMR 101-7, May 1973). Therefore, reimbursement of brokerage fees for the sale of property on which the home was located is allowable.

This decision responds to a request submitted by the Comptroller-Director of Administration, General Services Administration, concerning the claim of Mr. Gerald C. Newmeyer for reimbursement of brokerage fees for the sale of his property under the circumstances described below.

DLG 62970

On June 18, 1977, Mr. Newmeyer, an employee of the Department of the Navy, formally accepted a position with the General Services Administration (GSA), with Loudoun County, Virginia, as his new official permanent duty station. His reporting date was July 10, 1977. At the time of his acceptance Mr. Newmeyer was residing in temporary quarters as a result of a fire which on November 25, 1976, destroyed his mobile home in Mechanicsville, Maryland. On August 4, 1977, he sold the mobile home lot in Mechanicsville. Mr. Newmeyer has declared the Mechanicsville property as his permanent residence at his old official station and has filed the subject claim for the brokerage fees incurred in selling the mobile home lot. Mr. Newmeyer reports that he did not replace the burned residence since the insurance company did not settle the claim for its loss until the end of February and he was verbally notified of his selection for the position in GSA in early March 1977.

The statutory authorization for the reimbursement of expenses of the sale of the employee's residence at his old duty station is contained in 5 U.S.C. § 5724a(a)(4). Section 2-6.1d of the Federal Travel Regulations (FTR), FPMR 101-7, implementing that statute provides that reimbursement of the expenses of selling the old residence may be made provided the dwelling for which reimbursement of selling expenses is claimed was the employee's residence at the time he was first definitely

~~007182~~

B-193808

informed by competent authority of his transfer to the new official station. The term "residence" is defined in paragraph 2-1.4(i) of the FTR as "the residence or other quarters from which the employee regularly commutes to and from work."

Ordinarily the above regulation would preclude any reimbursement of selling expenses of property not used as a residence. However, our view is that the regulation was not intended to preclude reimbursement of expenses incurred incident to the sale of property on which the employee had lived and would have been living at the time of his notification of transfer but for circumstances beyond his control. In this case Mr. Newmeyer was living in temporary quarters when he was orally informed in early March 1977 that he would be transferred. The occupancy of temporary quarters was required because his mobile home had been destroyed by fire and his claim for its loss was not settled until just a few days before the notification of his transfer. Under such circumstances we believe that there was substantial compliance with the residence requirement. 58 Comp. Gen. 208 (1979); B-166270, March 21, 1969.

Accordingly, reimbursement of Mr. Newmeyer's real estate expenses incident to the sale of his property may be paid if otherwise correct.


Deputy Comptroller General
of the United States